

REMARKS

1. Introduction

In the Office Action mailed February 23, 2005, the Examiner rejected claims 1-5, 9-15, 18, 33, 34, 37-43, 46-60, 63-66, 68, 70, 71, and 74-78 under 35 U.S.C. § 103(a) as being unpatentable over Criss et al., U.S. Pub. No. 2001/0029178 ("Criss") in view of Wecker et al., U.S. Patent No. 6,311,058 ("Wecker") and Fillebrown et al., U.S. Pub. No. 2004/0204041 ("Fillebrown").

The Examiner rejected claims 6, 7, 35, 36, 61, 62, 72, and 73 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Wecker and in further view of Fillebrown.

The Examiner rejected claims 16 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Wecker and Fillebrown and in further view of Gombrich, U.S. Patent No. 4,916,441 ("Gombrich").

The Examiner rejected claims 17 and 45 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Wecker and Fillebrown and in further view of Shimura, U.S. Patent No. 5,754,624 ("Shimura").

The Examiner rejected claims 19-21, 67, and 69 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Wecker and Fillebrown and in further view of Ausems et al., U.S. Patent No. 6,434,403 ("Ausems").

The Examiner rejected claims 22-25, 29, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Gerszberg, U.S. Patent No. 5,297,192 ("Gerszberg") and Fillebrown.

The Examiner rejected claims 26 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Gerszberg and Fillebrown and in further view of Grewe.

The Examiner rejected claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Gerszberg and Fillebrown and in further view to Shimura.

The Examiner rejected claim 32 under 35 U.S.C. § 103(a) as being unpatentable over Criss in view of Gerszberg and Fillebrown and in further view of Gombrich.

The Examiner indicated that claims 8, 28, 79, and 80 contained allowable subject matter but objected to these claims as being dependent upon rejected base claims.

For the reasons set forth below, Applicants respectfully request reconsideration and allowance of the claims.

2. Response to Rejections

All of the Examiner's rejections rely on Fillebrown as a newly cited reference. However, the Examiner has not established that Fillebrown is prior art. The Fillebrown application was filed on February 1, 2001, after the August 31, 2000 filing date of the present application. Fillebrown also claims priority on a provisional application filed on June 16, 2000. The Examiner appears to have assumed that the June 16, 2000 date applies. However, the reference date under 35 U.S.C. § 102(e) of a published U.S. application that claims priority to a provisional application is the filing date of the provisional application "if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph." MPEP § 2136.03(III). The Examiner has not made the required showing that the provisional application properly

supports the subject matter relied upon to make the rejections. For that reason alone, that Examiner's claim rejections are improper and should be withdrawn.

Moreover, the provisional application clearly does not support the subject matter relied upon to make the rejections. In making the rejections, the Examiner has relied upon paragraph 61 of Fillebrown for the proposition that Fillebrown "teaches a wireless server (fig. 1 number 140) that may be implemented as a handheld device, personal computer, internet appliance, or other computing platform capable of executing software algorithms needed to enable a personal wireless network." However, this teaching is not found in the provisional application. If the Examiner believes otherwise, then the Examiner is respectfully requested to point out the specific text and/or figures in the provisional application that provide this teaching. A copy of Provisional Application No. 60/212,203, on which Fillebrown claims priority, is attached as Exhibit A for the Examiner's convenience.

Because the Examiner has not established that the newly cited reference, Fillebrown, is prior art that can be used to reject the claims, Applicants respectfully submit that the claims are clearly allowable. In particular, Applicants made the claim amendments that the Examiner agreed during the September 21, 2004 interview would overcome the prior art of record. Since that time, the Examiner has had ample opportunity to search for other prior art but has only come up with Fillebrown, a reference that the Examiner has not established is prior art. Accordingly, Applicants respectfully submit that the time has come to allow the claims as they are written.

3. **Conclusion**

Applicants submit that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, he is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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